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5 UNITED STATES DISTRICT COURT
6 SOUTHERN DISTRICT OF OHIO
7 WESTERN DIVISION
8 - - -

9 HENRY WILLIAMS, :
10 :
11 Plaintiff, :
12 :
13 vs. : CASE NO. C-1-02-533
14 :
15 MILTON CAN COMPANY, INC. and :
16 BWAY MANUFACTURING, :
17 :
18 Defendants. :
19 :
20 - - -

21 DEPOSITION

22 of CHARLES KOBMANN, taken before me, Kathy J. Nicholson,
23 Registered Professional Reporter and Notary Public in and
24 for the State of Ohio at large, as on cross-examination,
25 at the Hampton Inn, 858 Eastgate North Drive, in the City
of Batavia, County of Clermont, and State of Ohio, on
Tuesday, the 28th day of October, 2003, beginning at 11:25
o'clock, a.m.
- - -

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Blumberg No. 5118

EXHIBIT

C

1 I said, "Yes, I am."

2 They said, "It's your lucky night. So and so
3 didn't come in. Jump on it."

4 I said, "I've never been on a truck before."

5 "Here's how you drive the truck. You spill a
6 load, you're coming off."

7 That training was altogether different.

8 Q. Training by fire?

9 A. You got it. Thank goodness I had some buddies
10 that took me under their wing and helped me out.

11 Q. Heekin had fork trucks going back all the way to
12 your date of hire in '66?

13 A. The old Yale floor shift.

14 Q. At sometime after the early seventies when you
15 leapt into that spot and somebody didn't show up, you
16 stayed on that position?

17 A. Yeah, it was just kind of what I did was
18 forklift operator.

19 Q. Did you at some time get more formal training on
20 how to operate?

21 A. No. It wasn't until '70 or '87 was actually,
22 yeah, '87, a little bit before '87, Claude had asked, he
23 was getting ready to retire, and he was the forklift
24 instructor then, and they'd asked me if I would be
25 interested in going away to learn to be a trainer. He had

1 recommended me, and then that's when I went to Portman to
2 get myself certified to be a trainer.

3 Q. Portman is a manufacturer of fork trucks?

4 A. Yes, yes.

5 Q. What facility did you go to to become a trainer?

6 A. That was over there on Reed Hartman Highway.

7 Really well put together program.

8 Q. What was Claude's last name?

9 A. Claude Thompson.

10 Q. And do you know what training he had to be a
11 forklift instructor?

12 A. The same.

13 Q. Do you know when he got his training at Portman?

14 A. No, Will. And also then there was John Goebel
15 was a forklift trainer, and he's passed on.

16 Q. Was he before Claude?

17 A. He was after Claude.

18 Q. So Claude was a trainer, then John, then you.

19 A. Well, it was, let's see. It was Claude, then
20 me, and then John. John actually, at that time it was

21 what they called plant two and plant nine, and John was

22 actually the trainer over in plant two, and I was the

23 trainer in plant nine, and then there was when John

24 retired, they asked me if I would go ahead and take both

25 sides, which I agreed to.

1 still a lot of things that's the same, but there's a lot
2 of new addition to the test.

3 Q. Each time an employee is recertified, does that
4 test go into their file?

5 A. Yes. Yes.

6 Q. Do you know a fellow by the name of Bob Francia?

7 A. Yes, yes.

8 Q. Do you know who trained him to operate a fork
9 truck?

10 A. Bob was trained by me, yes.

11 Q. Do you know approximately when you trained Bob?

12 A. Let me think. I don't know if John ever had --
13 if John Goebel ever trained. I mean what I'm saying now,
14 Will, is going back, and Bob would know if he had any
15 training by John before John retired. Do you know what I
16 mean?

17 But I definitely have Bob's file and with my
18 records too, and in fact, I had to present that file when
19 the accident occurred to show him that, you know, he had
20 license, and he had, but that, has that ever been found?
21 That was a whole thing. Back then, the personnel manager
22 then had asked for all that, and I had to show him, but I
23 never got that back, and see, so that's, I mean Bob as far
24 as I remember, I had him once for sure that I licensed
25 him, and that was the license that he was actually

1 A. Okay. Bob went through a written test and a
2 driving test. They have to pass both to receive a
3 license, and that license is good for three years, and at
4 any time, like I say, it's the foremen are the ones, they
5 can say Cork, I -- we gave him three warnings or, you
6 know, Cork, he just came to us and said his eyesight is
7 failing so quick that we're going to take him off the
8 truck until we get, you know, find out what's all wrong
9 here, you know.

10 Once this is reported to me, like I say, that,
11 you know, is where they say well, Cork, we'd like you to
12 retest him one more time to see what you think, but that's
13 basically what I get is from what the foremen want to do
14 as far as --

15 Q. As far as?

16 A. Whether he's, you know, to see if he's capable
17 of still driving a truck through maybe his eyesight or an
18 arm injury, you know, to where he's capable of performing
19 his job.

20 Q. Did you ever have to test his eyesight?

21 A. No.

22 Q. Was an eye test part of the training or
23 qualifications to drive?

24 A. That was always a part of the company, they
25 actually had a hearing test, and they used to have an eye

1 But these, what I try to do, Will, is whatever
2 caused the accident in that, you know, to work on them in
3 that field so that they would know what to do next time.

4 Q. Before Jake's incident, did you ever have to
5 retrain anybody for either striking a pedestrian or a near
6 miss with a pedestrian?

7 A. No. I tell you, out of 37 years, been blessed
8 with a real good record, especially when I go away and
9 hear about other facilities like Ford where there's been a
10 couple killed.

11 Q. What's the biggest hazard posed by a fork truck?

12 A. It's the condition, condition of what you're
13 operating. Like I say, there's a lot of rows that they've
14 got to come in and go out of, and when you're backing out
15 of them rows, your counterweight is out in that row
16 sometimes before you can see anything, so that's why it's
17 important they hit the horn and slow until they are
18 actually able to see. Yes, their mirrors will let them
19 see anybody directly behind them, but somebody walking
20 along the can rows, the Toyota trucks have a real good
21 sounding horn on them, and that's one thing that when I go
22 in to look at the new trucks and the competition that's
23 coming in to try to get into the facilities to place their
24 trucks in there, those are the safety features that I'm --
25 I really look at.

1 A. Say that again, Will?

2 Q. Would the risk of that occurring, someone being
3 struck by a fork truck --

4 A. Right.

5 Q. -- would that increase when a fork truck is in
6 operation in reverse without honking the horn?

7 A. Okay. Also, that's where the back-up alarms. I
8 have those and the counterweights mounted in there in
9 case, like I say, they're supposed to hit the horn.
10 You've got your mirrors, you know, looking over your
11 shoulders, but that counterweight back-up alarm has really
12 been a big plus in sounding. Anytime that truck's going
13 backwards, Will, that counter or that back-up alarm and
14 counterweight is active.

15 Q. Did the trucks have the back-up alarms --

16 A. Yes.

17 Q. -- at the time of Jake's injury?

18 A. Yes, they did, yes.

19 Q. Do you know if the truck that Bob Francia was
20 operating had that back-up alarm?

21 A. Yes.

22 Q. Was it functional?

23 A. Yes.

24 Q. Do you know who tested that after the incident?

25 A. Oh, no, no. Let's see. We had -- at one time

1 test and written test and things like this.

2 Q. Okay. Did you train Jake?

3 A. Yes. Wait. Did you have any training under
4 John too?

5 MR. WILLIAMS: No, I didn't have any training
6 under John.

7 MR. ALLEN: You're Thursday, Jake.

8 MR. WILLIAMS: They gave me a book.

9 THE WITNESS: Did John --

10 MR. ALLEN: Let's go off the record.

11 (Off-the-record discussion.)

12 BY MR. ALLEN: *

13 Q. Have you been the forklift instructor for one or
14 both portions of the plant continually since '87?

15 A. Yes.

16 Q. And besides John, no one else has held that
17 position --

18 A. No, no.

19 Q. -- since you took over?

20 A. Right.

21 Q. Part of your job as the trainer involved
22 ensuring that workers operated the fork trucks safely?

23 A. Right.

24 Q. Would you agree that someone who violated the
25 safe operating rules was subject to discipline?

1 Q. Besides the recertification ride that you seem
2 to recall where he lost a load of cans --

3 A. Was over some cans that he had spilled.

4 Q. -- do you recall any other problems or concerns
5 that you had or that were brought to your attention about
6 Bob prior to his striking my client?

7 A. No.

8 Q. Did you ever hear that Bob almost struck two
9 individuals?

10 A. No. No.

11 Q. Had you been told that, would that be
12 justification for a recertification?

13 A. Yes, yes.

14 Q. Were you ever told that Bob drove a fork truck
15 off the dock?

16 A. No, no.

17 Q. Had you been told that, would that be
18 justification for recertification?

19 A. Definitely, definitely.

20 Q. Had you ever been told that Bob almost struck
21 another individual separate from the first two?

22 A. No.

23 Q. Would that be --

24 A. Definitely.

25 Q. -- justification for recertification?

1 Where that driver that's with him, he gives him
2 one line. Once he gets that line, he gives him two lines.
3 Once he says I've got this, gives him three, until all of
4 a sudden he's got all the lines, then you've got a
5 different ball game. He's looking and you say hey, I can
6 take it from here.

7 BY MR. ALLEN:

8 Q. But the only concern that was ever brought to
9 you by the company management with regard to Bob Francia
10 was the time that he lost the cans?

11 A. Yes, I mean that was, yes.

12 Q. Based on your training and observation of Bob,
13 did he seem to be always rushing around in a hurry?

14 A. Bob was a flighty person. I mean, you know,
15 we're all different in our ways.

16 Q. Did you have enough observation of his training
17 in actual work to form an opinion as to his capability to
18 operate a fork truck safely?

19 A. Okay. I mean like I say, he, you know, he was
20 able to pass both his written and his driving test, and I
21 had to observe him before taking cans down and hitting his
22 horn and backing up and doing things, you know, the right
23 way, but again, you know, we're all human. We all make
24 mistakes.

25 I've seen some of my best drivers sometimes

1 the truck itself, okay, that's always going, okay, that is
2 mounted up straight out from the overhead guard, so
3 there's no -- nothing to block you there as far as your
4 visibility.

5 Q. The Toyota 10,000 also has a strobe?

6 A. Yes, it does.

7 Q. You said they're on their way out of the plant.
8 You still have them?

9 A. Yes, these are the same trucks. These are the
10 same trucks.

11 Q. And you still have all the information from the
12 manufacturer on these?

13 A. Yes, yes, how the trucks came in, and like I
14 say, I had every toy put on them, all the bells and
15 whistles, and also on the Toyota, they actually have right
16 on the leg, right up where it almost goes into the
17 overhead guard, they have a back-up light, they have the
18 running light, and they have a turn signal light. The
19 best that they've ever had to offer came in on the new
20 Toyotas.

21 Q. Does the back-up light engage as soon as you put
22 it in reverse?

23 A. Yes, it does. That's the white light, yes.

24 Q. You're not aware of any physical or mental
25 problem that Bob Francia had that would have affected his


1 STATE OF OHIO :
2 : SS C-E-R-T-I-F-I-C-A-T-E
3 COUNTY OF MONTGOMERY :
4

5 I, Kathy J. Nicholson, a Registered Professional
6 Reporter and Notary Public in and for the State of Ohio at
7 Large, duly commissioned and qualified;

8 DO HEREBY CERTIFY that the above-named CHARLES
9 KOBMANN, was by me first sworn to testify to the truth,
10 the whole truth, and nothing but the truth; that his
11 testimony was recorded by me in stenotype and thereafter
12 reduced to typewriting; and was taken at the time and
13 place hereinabove set forth.

14 I FURTHER CERTIFY that I am not a relative or
15 attorney of either party, nor in any manner interested in
16 the event of the action.

17 IN WITNESS WHEREOF I have hereunto set my hand
18 and affixed my seal of office on the 7th day of
19 November, 2003.
20

21
22 
23 KATHY J. NICHOLSON, RPR
24 NOTARY PUBLIC, STATE OF OHIO
25 My commission expires 8/24/07